

General Instructions

Section references are to the Internal Revenue Code.

Purpose of Form

Certain food and beverage establishments (see *Who Should File* below) use Form 8846 to claim a credit for social security and Medicare taxes paid or incurred by the employer on certain employees' tips. The credit is part of the general business credit.

You can claim or elect not to claim the credit any time within 3 years from the due date of your return on either your original return or on an amended return.

Who Should File

File Form 8846 if you meet both of the following conditions.

1. You had employees who received tips from customers for providing, delivering, or serving food or beverages for consumption if tipping of employees for delivering or serving food or beverages is customary.
2. During the tax year, you paid or incurred employer social security and Medicare taxes on those tips.

How the Credit Is Figured

Generally, the credit equals the amount of employer social security and Medicare taxes paid or incurred by the employer on tips received by the employee. However, the employer social security and Medicare taxes on tips that are used to meet the Federal minimum wage rate applicable to the employee under the Fair Labor Standards Act are not included in the computation. The Federal minimum wage rate is \$5.15 per hour.

For example, an employee worked 100 hours and received \$350 in tips for October 2005. The worker received \$375 in wages (excluding tips) at the rate of \$3.75 an hour. Because the Federal minimum wage rate was \$5.15 an hour, the employee would have received wages, excluding tips, of \$515 had the employee been paid at the Federal minimum wage rate. Thus, only \$210 of the employee's tips for October 2005 is taken into account for credit purposes.

Specific Instructions

Part I

Current Year Credit

Figure the current year credit from your trade or business on lines 1 through 4. Skip lines 1 through 4 if you are only claiming a credit that was allocated to you from an S corporation or a partnership.

S Corporations and Partnerships

S corporations and partnerships figure their current year credit on lines 1 through 4, enter any credit from other flow-through entities on line 5, and allocate the credit on line 6 to the shareholders or partners. Attach Form 8846 to Form 1120S or Form 1065 and show on Schedule K-1 each shareholder's or partner's credit. Electing

large partnerships include this credit in "general credits."

Line 1

Enter the tips received by employees for services on which you paid or incurred employer social security and Medicare taxes during the tax year. Include tips received from customers for providing, delivering, or serving food or beverages for consumption if tipping of employees for delivering or serving food or beverages is customary.

Line 2

If you pay each tipped employee wages (excluding tips) equal to or more than the Federal minimum wage rate, enter zero on line 2.

Figure the amount of tips included on line 1 that are not creditable for each employee on a monthly basis. This is the total amount that would be payable to the employee at the Federal minimum wage rate reduced by the wages (excluding tips) actually paid to the employee during the month. Enter on line 2 the total amounts figured for all employees.

Line 4

If any tipped employee's wages and tips exceeded the 2005 social security tax wage base of \$90,000 subject to the 6.2% rate, check the box on line 4 and attach a separate computation showing the amount of tips subject to only the Medicare tax rate of 1.45%. Subtract these tips from the line 3 tips, and multiply the difference by .0765. Then, multiply the tips subject only to the Medicare tax by .0145. Enter the sum of these amounts on line 4.

Reduce the income tax deduction for employer social security and Medicare taxes by the amount on line 4.

Part II

Allowable Credit

The credit allowed for the current year may be limited based on your tax liability. Use Part II to figure the allowable credit unless you must file Form 3800, General Business Credit.

Who must file Form 3800. You must file Form 3800 if you have:

- A credit for employer social security and Medicare taxes paid on certain employee tips from a passive activity,
- More than one credit included in the general business credit (other than a credit from Form 8844, Form 6478, or Section B of Form 8835), or
- A carryback or carryforward of any of those credits.

See the instructions for Form 3800 for a list of credits included in the general business credit.

Line 10e

Include on line 10e any amounts claimed on:

- Form 8834, Qualified Electric Vehicle Credit, line 20;

- Form 8910, Alternative Motor Vehicle Credit, line 18; or
- Form 8911, Alternative Fuel Vehicle Refueling Property Credit, line 19.

Line 13

See section 38(c)(5) for special rules that apply to married couples filing separate returns, controlled corporate groups, regulated investment companies, real estate investment trusts, and estates and trusts.

Line 14

Although you may not owe alternative minimum tax (AMT), you generally must still compute the tentative minimum tax (TMT) to figure your credit. For a small corporation exempt from the AMT under section 55(e), enter zero. Otherwise, complete and attach the applicable AMT form or schedule.

Line 17

If you cannot use all of the credit because of the tax liability limit (line 16 is smaller than line 6), carry the unused credit back 1 year then forward up to 20 years. See the instructions for Form 3800 for details.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this form is approved under OMB control number 1545-0074 and is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is shown below.

Recordkeeping 6 hr., 27 min.
Learning about the law or the form 18 min.
Preparing and sending the form to the IRS 24 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.

